

Exhibit No. 3SB 289 - 2-12-07Bill No. SB 289

KEYPOINTS NEEDING CLARIFICATION IN
"AN ACT ALLOWING PUPILS TO CARRY AND SELF ADMINISTER PRESCRIBED
MEDICATION FOR ALLERGIES"

- The medications referred to in this bill are "prescribed medications for asthma, allergies and anaphylaxis" – this language needs to be clearly communicated each time "medication" is referred to
- The addition of oral antihistamines and decongestants is very important. Early prescribed (self) treatment may prevent a minor reaction from progressing into a life threatening reaction rendering a student incapable of self treatment
- Sharing of information amongst school staff members regarding students with asthma, allergies and potential anaphylaxis is vital. The proposed language states the information will be kept on file in the school nurse or school administrators office. It is quite possible that both the school nurse and school administrator may be out of the building at the same time – files may be locked in their absence and of no help to a student experiencing asthma, allergy or anaphylaxis episodes.
- Providing a backup (2nd dose) of the medication to the school should be an **OPTION** for parents – not a legal mandate. Epi pens and inhalers are costly and have short shelf lives - parents have expressed that providing multiple doses of the same med should be a choice based on the severity of each individual with asthma/allergies/anaphylaxis and at the discretion of the prescribing provider. School districts will certainly accept and store back up meds in predetermined locations when provided but fear if this is a mandate not an option – **STUDENTS AND PARENTS WILL NO LONGER SHARE THE HEALTH INFORMATION THAT THEIR CHILD HAS EMERGENCY MEDICATION PRESCRIBED AT ALL. THIS PRESENTS MORE RISK THAN NOT HAVING AN EXTRA DOSE AT SCHOOL**
- "Provide follow up care" is vague language in response to a student who has self administered epinephrine in the school setting. The **MINIMAL** care ANYONE should provide that student must include :
 1. 911 call
 2. an attempt to contact parent/guardian
 3. remain with student until parent or emergency help arrives

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2007 Montana Legislature

SENATE BILL NO. 289

INTRODUCED BY S. GALLUS

Dot Warrick
MASH
408-413

A BILL FOR AN ACT ENTITLED: "AN ACT ALLOWING PUPILS OF PUBLIC AND NONPUBLIC SCHOOLS TO CARRY AND SELF-ADMINISTER PRESCRIBED MEDICATION FOR asthma, SEVERE ALLERGIES; and anaphylaxis AMENDING SECTION 20-5-420, MCA; AND PROVIDING AN EFFECTIVE DATE."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

Section 1. Section 20-5-420, MCA, is amended to read:

"20-5-420. Self-administration or possession of asthma-prescribed medication for Asthma, Allergies and Anaphylaxis. (1) As used in this section, the following definitions apply:

(a) "Anaphylaxis" means a systemic allergic reaction that can be fatal in a short time period and is also known as anaphylactic shock.

(b) Severe Allergies means a life – threatening hypersensitivity to a specific substance such as food, pollen, or dust.

(c) "Asthma" means a chronic disorder or condition of the lungs that requires lifetime, ongoing, medical intervention.

(d) "Medication" means a medicine, including oral antihistamines and decongestants, inhaled bronchodilators, and inhaled corticosteroids, and autoinjectable epinephrine, prescribed by a licensed physician as defined in 37-3-102, a physician assistant who has been authorized to prescribe asthma medications as provided in 37-20-404, or an advanced practice registered nurse with prescriptive authority as provided in 37-8-202(5).

(e) "Self-administration" means a pupil's discretionary use of the Asthma, Allergy, or Anaphylactic asthma medication prescribed for the pupil.

(2) A school, whether public or nonpublic, shall permit the possession or self-administration of medication by a pupil with asthma, allergies, or anaphylaxis if the parents or guardians of the pupil provide to the school:

(a) written authorization, acknowledging and agreeing to the liability provisions in subsection (4), for the possession or self-administration of medication;

(b) a written statement from the pupil's physician, physician assistant, or advanced practice registered nurse containing the following information:

(i) the name and purpose of the medication;

(ii) the prescribed dosage; and

(iii) the time or times at which or the special circumstances under which the medication is to be administered;

(c) documentation that the pupil has demonstrated to the health care practitioner and the school nurse, if available, the skill level necessary to self administer the asthma, allergy or anaphylaxis medication as prescribed; and

(d) documentation that the pupil's physician, physician assistant, or advanced practice registered nurse has formulated a written treatment plan for managing asthma, severe allergies, or anaphylaxis episodes of the pupil and for medication use by the pupil during school hours.

(3) The information provided by the parents or guardians must be kept on file in the office of the school nurse or, in the absence of a school nurse, the school's administrator, and this information may be shared on an 'as needed' basis with other school staff in maintaining the health and safety of the student.

(4) The school district or nonpublic school and its employees and agents are not liable as a result of any injury arising from the self-administration of medication by the pupil unless an act or omission is the result of gross negligence, willful and wanton conduct, or an intentional tort. The parents or guardians of the pupil must be given a written notice and sign a statement acknowledging that the school district or nonpublic school may not incur liability as a result of any injury arising from the self-administration of medication by the pupil and that the parents or guardians shall indemnify and hold harmless the school district or nonpublic school and its employees and agents against any claims, except a claim based on an act or omission that is the result of gross negligence, willful and wanton conduct, or an intentional tort.

(5) The permission for self-administration of prescribed medication for asthma, allergies or anaphylaxis is effective for the school year for which it is granted and must be renewed each subsequent school year or, if the medication expires, or the dosage, frequency of administration, or other conditions change, upon fulfillment of the requirements of this section.

(6) If the requirements of this section are fulfilled, a pupil with asthma or severe allergies, or anaphylaxis may possess and use the pupil's medication:

(a) while in school;

(b) while at a school-sponsored activity;

(c) while under the supervision of school personnel;

(d) before or after normal school activities, such as while in before-school or after-school care on school-operated property; or

(e) while in transit to or from school or school-sponsored activities.

(7) If provided by the parent or guardian and in accordance with documents provided by the pupil's physician, physician assistant, or advanced practice registered nurse, asthma, allergy or anaphylaxis medication may be kept by the pupil and backup medication ~~must~~ may be kept at a pupil's school in a predetermined location or locations

to which the pupil, school nurse, and/or other designated staff member with proper training has immediate access in the event of an asthma, allergy, or anaphylaxis emergency. For students requiring medications for asthma, allergies, or anaphylaxis not capable of self administration, the ordered medication will be provided to school from home and accessible to the school nurse and/or other staff member educated in the safe delivery of asthma, allergy or anaphylaxis medication in the absence of the school nurse in accordance with individual school district policy and within the practice acts of the Montana Board of Nursing.

(8) Immediately after using self administered epinephrine during school hours, a student shall report to the school nurse, if present, or other designated adult at the school who shall provide followup care, including making make a 9-1-1 emergency call, attempt to contact the parent/guardian, and remain with the student or designate another adult to remain with the student until the parent/guardian or emergency help arrive.

(8)(9) Youth correctional facilities are exempt from this section and shall adopt policies related to access and use of asthma and allergy, and anaphylaxis medications."

NEW SECTION. Section 2. Effective date. [This act] is effective July 1, 2007.

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